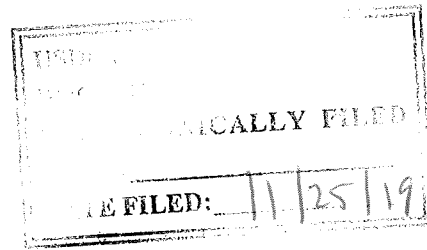


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----X
PABLO FERNANDEZ,
Plaintiff,

v.

CORRECTION OFFICER LEON LOWE,
SERGEANT TODD PAROLINE,
LIEUTENANT JOHN MCMORROW,
CAPTAIN LINDA CARRINGTON-ALLEN,
QUANDERA T. QUICK, and DR. FELIX
EZEKWE,
Defendants.
-----X

ORDER OF DISMISSAL

18 CV 8887 (VB)

Plaintiff, who is proceeding pro se and in forma pauperis, commenced this action by filing a complaint dated September 8, 2018. (Doc. # 2). At that time, plaintiff was incarcerated at Fishkill Correctional Facility in Beacon, New York. (See Doc. # 6).

As the Court stated in its Order of Service dated October 1, 2018 (Doc. #6), it is plaintiff's responsibility to notify the Court in writing if his address changes, and the Court may dismiss the action if plaintiff fails to do so.

The Order of Service was mailed to plaintiff, as were an "Instructions for Litigants Who Do Not Have Attorneys" pamphlet and a blank "Notice of Change of Address" form. (See Doc. #7). Like the Order of Service, the Instructions pamphlet also states it is plaintiff's responsibility to notify the Court in writing if his address changes, and the Court may dismiss the action if plaintiff fails to do so. (See id. at ECF 2).

On June 14, 2019, the Court received a letter from plaintiff, in which plaintiff noted his conviction was overturned and he was transported to the Anna M. Kross Center at the Rikers Island complex in East Elmhurst, NY, to await retrial. (Doc. #26).

On August 8, 2019, the Court received a letter from plaintiff, in which plaintiff stated he was released from prison on August 2, 2019. (Doc. #30). The letter provided a new address for plaintiff, at 153 Manhattan Avenue, New York, NY 10025. (Id.). The Clerk updated plaintiff's address on the docket.

On August 9, 2019, the Court issued an Order (Doc. #31) accepting a sur-reply filed by plaintiff in further opposition to defendants' motion to dismiss (Doc. #29). The Clerk mailed a copy of the August 9 Order to plaintiff at his address on the docket. On August 21, 2019, the August 9 Order was returned as undeliverable with the notation "Return to Sender; Insufficient Address, Unable to Forward."

On August 27, 2019, the Court issued an Order directing plaintiff to update his address in writing by September 26, 2019, and stating in bold and underlined font that if plaintiff failed to do so, the Court may dismiss the action pursuant to Fed R. Civ. P. 41(b) for failure to prosecute or failure to comply with Court orders. (Doc. #32).

On September 11, 2019, the August 27 Order was returned as undeliverable with the notation "Insufficient Address, Unable to Forward."

Accordingly, on October 11, 2019, the Court sua sponte issued another Order directing plaintiff to update his address in writing, this time by November 11, 2019, and stating in bold and underlined font that if plaintiff failed to do so, the Court will dismiss the action pursuant to Fed R. Civ. P. 41(b) for failure to prosecute or failure to comply with Court orders. (Doc. #33).

On October 29, 2019, the October 11 Order was returned as undeliverable with the notation "Attempted — Not Known."

To date, plaintiff has failed to update his address in writing. The Court concludes plaintiff has abandoned this case. Having considered all of the factors set forth in Lucas v.

Miles, 84 F.3d 532, 535 (2d Cir. 1996), the Court dismisses this case with prejudice for failure to prosecute or comply with Court orders. Fed. R. Civ. P. 41(b).

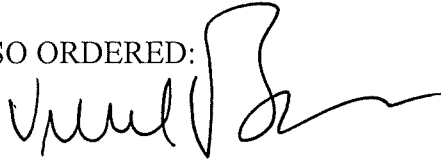
The Clerk is directed to terminate as moot defendants' pending motion to dismiss. (Doc. #19).

The Clerk is further directed to close this case and mail a copy of this Order to plaintiff at the address on the docket.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore in forma pauperis status is denied for the purposes of an appeal. Cf. Coppedge v. United States, 369 U.S. 438, 444–45 (1962).

Dated: November 25, 2019
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Vincent L. Briccetti', written over a horizontal line.

Vincent L. Briccetti
United States District Judge